

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, JUNE 3, 2003**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of June 3, 2003, was called to order by Mayor Hitchcock at 7:02 a.m.

Present: Council Members – Beckman, Howard, Land, and Mayor Hitchcock

Absent: Council Members – Hansen

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. REGULAR CALENDAR

B-1 “Adopt resolution in support of Senate Bill 888 entitled, ‘Repeal of Electricity Deregulation Act of 2003’”

Sondra Huff, Electric Utility Governmental Affairs Manager, reported that SB 888 was introduced by Senator Joseph Dunn, Chairman of the Select Committee. The bill was approved by the Senate Energy Committee and is now in the Appropriations Committee. Senator Dunn addressed the Northern California Power Agency (NCPA) a month ago regarding this topic. Council Member Hansen was in attendance at the meeting and had requested that a resolution in support of SB 888 be brought to Council for consideration. Ms. Huff explained that SB 888 seeks to repeal AB 1890. It eliminates retail direct access and restores the investor-owned utilities obligation to serve.

Electric Utility Director Vallow recalled that he has often stated over the years that the Utility is remaining vertically integrated, i.e. keeping its transmission, distribution, and generation together. The investor-owned utilities were ordered to sell off their generation, to disaggregate the services, and provide a menu of various services that customers could buy. Mr. Vallow explained that what the customers did not understand was that the list of things they needed to buy was about 150 items long, and each one with an individual price tag associated with it.

In reply to Mayor Hitchcock, Mr. Vallow reported that PG&E continues to own its nuclear and hydroelectric assets. It sold off a majority of its fossil fuel plants. Its traditional obligation was to provide for power and growth. Mr. Vallow stated that the underlying concept of AB 1890 was that a commodity market is more efficient than command and control regulation, and that market would predict when new power was needed much better than a group of utility executives, engineers, and regulators.

Ms. Huff explained that SB 888 would authorize investor-owned utilities’ investment in transmission and generation again, which they had previously halted. SB 888 does not impose new requirements on Electric Utility because it has remained vertically integrated during this time. The California Municipal Utilities Association, NCPA, and Southern California Public Power Authority all support SB 888. Ms. Huff noted that local regulation ensures reliability.

Council Member Land noted that PG&E left the City stranded with a \$1.8 million “bad check”. He asked if this legislation would affect the bankruptcy proceeding, to which Mr. Vallow replied that it would not.

Council Member Beckman questioned whether the City should be involved in telling the State what bills it should or should not pass. He suggested that the Electric Utility Director send a letter in support of the bill, rather than Council adopting a resolution.

Mr. Vallow replied that messages regarding support or opposition to bills are much more effective via communication between elected bodies.

Council Member Beckman asked Mr. Vallow if he characterized SB 888 to be one of the most crucial bills in Sacramento right now affecting the Utility.

Mr. Vallow believed that SB 888 would have a tremendous impact on the Utility over the next five years and is the most crucial debate and dialog facing the department.

Mayor Hitchcock reported that the League of California Cities has found that it is more effective when representatives of cities lobby directly, and resolutions are the vehicle by which they are doing it.

Council Member Beckman implied that it may not be appropriate to use City time, facilities, and legislative action for this purpose. He suggested that each Council Member sign a letter of support instead of adopting a resolution.

To illustrate the importance of the matter, Mr. Vallow pointed out that AB 1890 cost the Utility \$24 million over a period of two years.

Discussion ensued regarding the merit of City resolutions in support or opposition to State bills.

MOTION:

Council Member Beckman made a motion Land second, to adopt Resolution No. 2003-96 in support of Senate Bill 888 entitled, "Repeal of Electricity Deregulation Act of 2003."

DISCUSSION:

City Attorney Hays stated that from a staff perspective there is a significant difference between writing a letter and having a resolution. He pointed out that the Council acts through legislative acts that are embodied in resolutions, not letters. Without bringing the matter to Council for direction, staff has no idea what the position of Council is. Those receiving such a resolution understand that it was action taken in an open meeting that afforded an opportunity for the public to be involved in the process. He explained that staff would have to bring a request to Council even for a letter to be signed, because individually staff cannot ask each Council Member to sign a letter. With the procedure being used this morning staff is asking Council to collectively take a position. Mr. Hays believed it to be the appropriate forum and way to deal with the issue.

Mayor Pro Tempore Howard declared that Council is a legislative body being asked to respond to a legislative action, which she believed was its responsibility to hear, consider, and respond to. She believed that this type of communication process would become more common and that it was the most direct and effective way to send information to legislators in Sacramento. Communication in the form of letters signed by Council Members is appropriate for congratulatory statements, etc. When an issue has a direct impact on the policy that the City is going to have to follow, then Council needs to respond in a collective legislative manner.

Mr. Flynn expressed his opinion that in the long run the market does make the best decision on the allocation of resources. He noted, however, that the previous situation failed, and agreed that it does need to be evaluated.

Mr. Vallow stated that beginning in 1989 the municipal community generally supported wholesale electric competition. He indicated that difficulties arise when the retail market is entered.

In reply to Mayor Hitchcock, Mr. Vallow reported that those opposed to SB 888 are the entities that were in support of AB 1890. He stated that the independent power producers profited from the "meltdown" of the industry. Ms. Huff noted that as of last week, the League of California Cities had not yet taken a position on SB 888.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Hansen

- B-2 “Adopt resolution opposing AB 170 regarding an unfunded State mandate that would require cities and counties in the San Joaquin Valley Air Pollution Control District to prepare and adopt air quality general plan policies or a separate general plan element”

City Manager Flynn reported that there was a growing debate in the San Joaquin Valley from Lodi to Bakersfield over how to address air pollution. The Mayor of Fresno is taking a lead in the discussion. The northern part of the district gets much of its pollution from the Bay Area. The southern part of the district is generating pollution, which is worsened by the fact that they are located in a bowl.

J. D. Hightower, City Planner, stated that AB 170 would dictate that cities adopt policies, which are contained in the Air Quality Guidelines for General Plans, published in 1994 by the Air Pollution Control District. The bill mandates that cities submit general plan guidelines within five years to the Air Pollution Control District, and it will judge the policies based upon the Air Quality Guidelines. Mr. Hightower believed that AB 170 places undue burden on Central Valley cities and represents erosion of local control. He noted that Lodi has traditionally done a good job of complying with a majority of the policies contained in the Air Quality Guidelines, such as efforts toward a greenbelt.

Council Member Beckman asked Mr. Hightower if AB 170 is crucial to the Community Development Department, to which Mr. Hightower replied in the affirmative.

Community Development Director Bartlam explained that an analogy to AB 170 is the current status of the housing element mandate. He recalled that 20 years ago the state entered into mandating very specific requirements of cities through their housing elements. With AB 170 the state adds an additional layer and puts another agency in the position of judging whether the City has done a good job. Mr. Bartlam stated that Lodi's air quality is more akin to Sacramento than Fresno or Bakersfield.

MOTION:

Council Member Beckman made a motion, Howard second, to adopt Resolution No. 2003-97 in opposition to Assembly Bill 170 regarding an unfunded State mandate that would require cities and counties in the San Joaquin Valley Air Pollution Control District to prepare and adopt air quality general plan policies or a separate general plan element.

DISCUSSION:

Council Member Land stated that he would continue to oppose any unfunded mandate from the State, as well as any type of legislation that singles out a particular segment of the state to adhere to certain standards. He believed that the Air Quality Guidelines were a good idea; however, they should be applied statewide. He commented that any legislation that applies only to certain cities or areas of the state is probably unconstitutional.

Mayor Hitchcock expressed reservations about supporting the motion, citing her concern for the air quality in the Valley, which she pointed out was worse than Los Angeles'. She stated that something needs to be done to improve it, and it would not likely occur on an individual city level.

Mr. Bartlam stated that the regulation should exist at the Air Quality District level, which is one of local control. The District is made up of locally elected representatives within the boundaries of the district. He noted that the South Coast Air Quality Management District was successful in improving its air quality, which is now better than it was in 1954.

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Mayor Hitchcock replied that the San Joaquin Air Pollution Control District has not met any of the goals that it was directed to fulfill.

Mr. Bartlam questioned how the air quality could be improved without first fixing the root of the problem, i.e. the San Joaquin Air Pollution Control District. He also believed that the District should be bifurcated between the north and the south Valley.

Mayor Pro Tempore Howard reported that Lodi and other cities in the area would be hearing a number of different proposals throughout this year and the next, regarding reduction of air pollution in the Central Valley. The San Joaquin Council of Governments (SJCOC) began a contract in 2002 with Sierra Nevada who provided a white paper on air quality in the Valley and held a workshop on the topic. Currently, SJCOC has contracted with Sierra Nevada in the hope of San Joaquin County creating a separate air quality planning area specific to the northern three counties. Benefits would include having statistics that would take into consideration the delta breeze that improves the air quality in this area, as well as the fact that the particulate matter is different, and some of the pollution is coming from the Bay Area and Sacramento. This data should justify different standards in the northern part of the district. Support has been received from the San Joaquin County Board of Supervisors, who will be approaching Boards in other northern counties in an attempt to gain consensus. Other related bills, such as the burning of agricultural waste, are being sponsored by Senator Dean Florez.

Mr. Bartlam warned that potential impacts resulting from compliance with the regulations of AB 170 could include the implementation of a 9/80 work week to reduce vehicle trips, elimination of wood burning stoves, and restrictions or elimination of certain agricultural practices, such as burning waste, disking, and diesel engine use. In addition, there are costly implications related to increased code enforcement and building permit review.

Mayor Hitchcock stated that she would vote against the motion due to her concern that the San Joaquin Valley has the worst air in the state and policies to make improvements will be difficult for everyone; however, the alternative is worse.

Council Member Land reiterated his view that AB 170 is a good bill, but it should be effective statewide, not just for a certain segment.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, and Land

Noes: Council Members – Mayor Hitchcock

Absent: Council Members – Hansen

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

D. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 8:15 a.m.

ATTEST:

Susan J. Blackston
City Clerk